

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

SEP 29 2005

DAVID J. MALAND, CLERK

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

VS.

FAMILY DOLLAR STORES OF TEXAS, L.P.,
FAMILY DOLLAR HOLDINGS, INC.
Defendants.

BY
DEPUTY _____

CIVIL ACTION NO. 1:05cv663

JURY TRIAL DEMANDED

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ORIGINAL COMPLAINT

NATURE OF THE ACTION

1. This is an action under Title VII of the Civil Rights Act of 1964, as amended and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex and to afford appropriate relief to Misty Thomas who was adversely affected by the below described unlawful practices. In this lawsuit, Plaintiff, Equal Employment Opportunity Commission ("Commission"), alleges that Family Dollar Stores of Texas, L.P. and Family Dollar Holdings, Inc. (collectively "Defendants") unlawfully refused to hire Ms. Thomas because she was pregnant.

JURISDICTION AND VENUE

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, *et.seq.* ("Title VII") in Section 706(f)(1) and (3), 42 U.S.C. Section 2000e-5(f)(1) and (3) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. Section 1981a.

3. The employment practices alleged to be unlawful were committed in Port Acres, Texas which is within the jurisdiction of the United States District Court for the

Eastern District of Texas, Beaumont Division.

4. Venue is proper within the jurisdiction of the United States District Court for the Eastern District of Texas, Beaumont Division.

PARTIES

5. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII and is expressly authorized to bring this action by Section 706(f)(1) of Title VII, 42 U.S.C. Section 2000e-5(f)(1).

6. At all relevant times, Defendant, Family Dollar Stores of Texas, L.P., has continuously been doing business in the State of Texas, the City of Port Acres and Jefferson County, Texas, and has continuously had at least fifteen (15) employees. Defendant Family Dollar Stores of Texas, L.P. may be served with process by serving its registered agent in Texas, The Prentice-Hall Corporation System, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

7. At all relevant times, Defendant Family Dollar Stores of Texas, L.P. has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C. Section 2000e(b), (g) and (h).

8. At all relevant times, Defendant, Family Dollar Holdings, Inc. has continuously been doing business in the State of Texas, the City of Port Acres and Jefferson County, Texas, and has continuously had at least fifteen (15) employees. Defendant Family Dollar Holdings, Inc. may be served with process by serving its registered agent in Texas, The Prentice-Hall Corporation System, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

9. At all relevant times, Defendant Family Dollar Holdings, Inc. has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g) and (h) of Title VII, 42 U.S.C. Section 2000e(b), (g) and (h).

STATEMENT OF CLAIMS

10. More than thirty days prior to the institution of this lawsuit, Misty Thomas filed a charge of discrimination with the Commission against the Defendants alleging violations of Title VII. All conditions precedent to the institution of this lawsuit have been fulfilled including the timely filing of a charge, and an attempt to conciliate the matter.

11. Since at least 2004, Defendants have engaged in unlawful employment practices in violation of Sections 703(a)(1) and 701(k) of Title VII, 42 U.S.C. Sections 2000e-2(a)(1) and 20000e(k). The practices include subjecting its female applicants to unlawful sex discrimination on the basis of pregnancy.

12. In or about March 2004, Ms. Thomas applied for a position at Defendants Port Acres store location. She was interviewed by the Store Manager, Ms. McMaster. She successfully completed the interview and was offered the position. Upon learning that Ms. Thomas was pregnant, Ms. McMaster withdrew the job offer and informed Ms. Thomas that she could not hire her because she was pregnant.

13. Ms. Thomas objected to this decision and assured Ms. McMaster that there were no medical limitations on her ability to do the job. Ms. McMaster insisted that she was not going to hire somebody who was pregnant.

14. Ms. Thomas asked for written confirmation why she would not be hired and Ms. McMaster complied and wrote that she did not hire Ms. Thomas because she was pregnant.

15. The effect of these unlawful practices has been to deprive Ms. Thomas and possibly other female applicants and employees of equal employment opportunities, and to otherwise adversely affect their status as applicants or employees because of their pregnancy.

16. The unlawful employment practices complained of above were intentional.

17. Defendant, at all relevant times, committed the unlawful employment practices with malice or in reckless disregard of the federally protected rights of Ms. Thomas.

PRAYER FOR RELIEF

18. Wherefore, the Commission respectfully requests that this Court:

- A. Grant a permanent injunction enjoining Defendants Family Dollar Stores of Texas, L.P. and Family Dollar Holdings, Inc., their officers, successors, assigns and all persons in active concert or participation with them, from engaging in discrimination against pregnant applicants and employees, and from engaging in any other employment practice which discriminates against individuals on the basis of sex.
- B. Order Defendants Family Dollar Stores of Texas, L.P. and Family Dollar Holdings, Inc. to institute and carry out policies, practices and programs which provide equal employment opportunities for female applicants and employees, and which eradicate the effects of its past and present unlawful employment practices.

- C. Grant a judgment requiring Defendants Family Dollar Stores of Texas, L.P. and Family Dollar Holdings, Inc., to make Misty Thomas whole by providing appropriate back wages and pre-judgment interest, in an amount to be determined at trial, as well as any other affirmative relief necessary to eradicate the effects of Defendants' unlawful employment practices, including, but not limited to, reinstatement of Ms. Thomas or order an award of front pay in an amount to be proved at trial if reinstatement is impractical.
- D. Order Defendants Family Dollar Stores of Texas, L.P. and Family Dollar Holdings, Inc. to make Misty Thomas whole by providing compensation for past and future pecuniary losses, including medical expenses and job search expenses, in an amount to be determined at trial.
- E. Order Defendants Family Dollar Stores of Texas, L.P. and Family Dollar Holdings, Inc. to make Misty Thomas whole by providing compensation for non-pecuniary losses, including emotional pain and suffering, in amounts to be determined at trial.
- F. Order Defendants Family Dollar Stores of Texas, L.P. and Family Dollar Holdings, Inc. to pay Misty Thomas punitive damages for its malicious and/or reckless conduct, in amounts to be determined at trial.
- G. Grant such further relief as the Court deems necessary and proper.
- H. Award the Commission its costs of this action.

JURY DEMAND

19. The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

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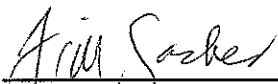
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